

## REPORTING ON PROVIDERS WHEN THE REGISTRATION HAS BEEN CANCELLED

### Background

NQAP on 5 August considered two reports which related to providers where the registration with CQC had been cancelled. One was as a result of urgent action taken under section 30 and the other was a voluntary cancellation. There was a discussion around:

- whether the report and/or CQC website could refer to the cancellation
- if it was appropriate to include requirement notices and lists of 'musts' when the provider was no longer registered.
- whether the imposition of 'special measures' is required for an Inadequate practice where the registration has been cancelled.

NQAP asked for some guidance on these questions.

### Should we refer to the cancellation either in the report or on the website?

- CQC has a duty to keep the public informed as to who is registered. In the case of **voluntary cancellations** we should be telling the public that a provider has cancelled its registration when an application has been submitted and CQC has accepted that application.
- Publishing information about urgent cancellation is a complex legal issue and legal advice should be sought on a case by case basis. Legal advice should, also, always be sought relating to referring to urgent suspensions.
- There are conflicts between primary and secondary legislation in relation to publishing information about urgent enforcement action and Counsel's opinion has been obtained. CQC is considering this advice and it is envisaged that a CQC-wide policy will be adopted, taking the opinion into account.

### Should we report breaches and 'musts' when the registration has been cancelled?

- The law says that we have to report breaches when we find them.
- However, we can't issue a requirement notice to a person who is not registered with CQC

We should report the breaches that have been found even if we are not able to issue requirement notices. We should state that the registration has been cancelled and in the case of an urgent cancellation state that this is subject to appeal. Because of the constraints of the template, the CI letter seems to be the best place to do this.

We may also wish to say in the CI letter that if the provider had still been registered we would have set out the following list of 'musts' for their action. This would assist any new provider taking over the practice by setting a baseline of required improvements. We should also set out in the CI letter, where it is a matter of fact at the time of writing, what has happened to the patients that were registered with the provider.

The rest of the report should set out what we found at inspection. The requirement notices at the back of the report are not needed (as there is no registered person to require action from). However, the breaches will have been summarised in the CI letter.

These issues affect other sectors and any proposed approach should be agreed and adopted across the sectors.

### Do we put Inadequate practices into special measures if the registration has been cancelled?

Our guidance on special measures says:

- 'If a service is rated as inadequate it will be placed straight in special measures.'

- 'In some cases, it may be appropriate to take urgent action rather than placing the service in special measures.'
- 'It is CQC's decision whether to place a service in special measures.'
- 'In a small number of scenarios it may be more appropriate to proceed straight to cancelling a provider's registration, rather than placing them in special measures.'

### **Does special measures transfer to a new provider?**

Special measures is intended to apply to the service, not the provider (ie the GP practice, the OOH service). It was agreed by SLT in June that therefore the service (GP practice) should remain in special measures until a further re-inspection of the service demonstrates improvement (no longer rated as Inadequate). In some cases, where we have information to suggest that improvements have been made we may inspect the service, run by the new provider, sooner than the six months we normally say when a service is in special measures. The reason for this approach is that the service does not improve instantly just because there is a new provider, and from a patient perspective they should be made aware that the service has been rated as inadequate and that improvements are being made. This applies in all situations, including when the new provider is an NHS Trust (this has yet to be included in the guidance as we are checking this approach with the acute policy team who are liaising with Mike Richards about this).

### **Does the practice automatically go into special measures, even if we are taking urgent enforcement action?**

The special measures guidance is not yet clear on what happens in situations where a provider has voluntarily applied to cancel their registration for that practice or an urgent cancellation takes place and whether the practice should be placed into special measures or not. The guidance may need to be revised to make clear the policy intention that an overall rating of Inadequate should lead to special measures and that this can be done alongside other enforcement action, including urgent action **if, following either voluntary cancellation or urgent cancellation, there is still a practice or service in existence** (ie the practice has been taken over by a new provider rather than the patient list being distributed amongst other practices in the area). If there is no practice still in existence (due to an urgent cancellation, or a voluntary application to cancel) then the practice will not be placed into special measures as there is no benefit in placing the service in special measures.

Again, legal advice should be sought on a case by case basis.